

REMARKS

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided, for the indication that the drawings are acceptable, for the acknowledgment of Applicant's Information Disclosure Statement by return of the FORM PTO-1449, and for the acknowledgment of Applicant's Claim for Priority and receipt of the certified copy of the priority document in the Official Action.

Upon entry of the above amendments claims 1 and 9 will have been amended. Claims 1-16 are currently pending. Applicant respectfully requests reconsideration of the outstanding objection and rejections, and allowance of all the claims pending in the present application.

On page 2 of the Official Action, the Title is objected to as not being descriptive. Although Applicant does not necessarily agree with this objection, the Title has been amended to be more descriptive. Accordingly, Applicant respectfully requests withdrawal of the objection to the Title.

On pages 2-5 of the Official Action, claims 1-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Admitted Prior Art (APA) in view of MATSUI (U.S. Patent No. 5,787,064).

Applicant respectfully traverses the rejection of claims 1-16 under 35 U.S.C. §103(a).

As an initial matter, Applicant notes that it is not clear from the statement of the rejection which of the several prior art systems discussed in the present application is being relied upon in the rejection. In this regard, Applicant notes that the Background of

the Invention section of the present application discusses the system disclosed in JP 7-326084 (see, for example, Paragraphs [0003] – [0007]); the system depicted in Figs. 3 and 4 (see, for example, Paragraphs [0008] – [0013]); and the system disclosed in JP 2000-276745 (see, for example, Paragraphs [0014] and [0015]). Applicant submits that the Examiner cannot properly characterize or apply features of these various, disparate systems as if they were disclosed in a single reference. Accordingly, Applicant respectfully requests that the Examiner identify which of these disparate systems he is referring to and relying upon with the phrase Admitted Prior Art (APA).

Applicant further notes that JP 7-326084 and JP 2000-276745 have both been cited and made of record, along with U.S. patent family members thereof. Applicant submits that any rejection based upon the systems disclosed in these Japanese patent documents should be made by reference to the underlying Japanese document, rather than by their characterization as Admitted Prior Art.

Although it is not clear from the statement of the rejection which system the Examiner refers to as APA, Applicant submits that the invention as recited in independent claims 1 and 9 is neither disclosed, nor would it have been obvious, in view of any of the prior art systems discussed in the Background of the Invention section. Further, Applicant submits that the teachings of MATSUI do not cure the deficiencies of such prior art systems.

In this regard, Applicant notes that each of claims 1 and 9 recites, inter alia, “a deflector that deflects the light beam emitted by the light emitting device toward an optical disc”. Applicant submits that MATSUI lacks any disclosure of such a *deflector* which *deflects a light beam toward an optical disc*, and thus clearly does not provide

any teaching which can support the modification suggested by the Examiner. In this regard, Applicant submits that the beam splitter 114 in MATSUI does not *deflect* the light beam from the light source 111 toward the optical disc 150. Instead, it is clear that in the system of MATSUI the light beam from the light source 111 passes through the parallel surfaces of the beam splitter 114 toward the optical disc 150 *without being deflected*. Compare, for example, the path of the light beam as it passes through the deflector 22 in Fig. 1 of the present application.

Accordingly, Applicant submits that the beam splitter 114 of MATSUI (which is clearly not a deflector) cannot reasonably be characterized as providing the teachings described by the Examiner for modification of the system of the APA. In other words, Applicant submits that one having ordinary skill in the art would not look to a parallel surface beam splitter for modifying a deflector as suggested by the Examiner. Applicant submits that neither the APA nor MATSUI disclose, nor render obvious, the deflector as recited in the claims.

Accordingly, Applicant submits that the deficiencies regarding the deflector in the system of the APA with regard to claims 1 and 9 (which the Examiner acknowledges in the Official Action) can not possibly be view as cured by the teachings of the beam splitter 114 in MATSUI (which is clearly not a deflector). Applicant submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art in view of the teachings of the APA and MATSUI. Applicant further submits that such modifications are clearly the result of impermissible hindsight reasoning, rather than being based upon the teachings of the references themselves.

Applicant also submits that claims 2-8 and 10-16, which are at least patentable due to their respective dependencies from claims 1 and 9, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record. In this regard, Applicant submits that the additional subject matter recited in the dependent claims is not discussed in the portions of the Background of the Invention section noted by the Examiner. Further, as noted above, the Examiner cannot properly characterize or apply features of these various, disparate systems as if they were disclosed in a single reference.

Applicant respectfully submits that the rejection of claims 1-16 under 35 U.S.C. § 103(a) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and an early indication of the allowance of these claims.

SUMMARY

Applicant submits that the present application is in condition for allowance, and respectfully requests an indication to that effect. Applicant has argued the allowability of the claims and pointed out deficiencies of the applied references. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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